HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No. 9307 of 2005

Dated: 19th September, 2005

Between:

Dr. J.A.L.Ranganath S/o.J.Ranga Swamy,

Student of M.D. Pediatrics, Andhra Medical College, Visakhapatnam, R/o.# 12-12-30, Old Club Road, Kothapet, Guntur, rep. by his father and G.P.A.Holder Prof. J.Ranga Swamy S/o.late J.Ragnaiah, Retired Professor, R/o.# 12-12-30, Old Club Road, Kothapet, Guntur.

..... PETITIONER

AND

1. The Vice Chancellor, University of Health Sciences,

Gunadala, Vijayawada and others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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ORDER:

This writ petition has been filed by Dr.J.A.L.Ranganath represented by his father and General Power of Attorney Holder-Prof. J.Ranga Swamy with a prayer to issue a writ, order, direction more appropriately in the nature of writ of Mandamus declaring the action of the respondents in not following the rules of University in assessing the candidates individually who appeared for M.D. Pediatrics practical examination of Andhra Medical College, Visakhapatnam, conducted on 01.11.2004 as illegal and arbitrary.

2. The petitioner is a student of M.D. Course (Pediatrics). His grievance is that his practical examination has not been properly evaluated by the competent persons. One of the external examiners viz., Prof. Mallikarjun is not competent to be external

examiner and therefore, assessment of the petitioner in practical examination made by him is to be declared as not legal and consequently reexamination in practical under Video-graph to assess the relative merit of the candidates is required to be conducted. For better understanding the grievance of the petitioner, I deem it appropriate to refer relevant portion of para.6 of the affidavit filed in support of the writ petition and it is thus:

> "It is further respectfully submitted that the matter was also placed before the Hon'ble Lokayuktha/Upa Lokayuktha to probe and ascertain the illegal activities and to recommend for suitable punishment of culprits to the Hon'ble Chancellor for necessary action. It is submitted in this connection the details herein are as follows:
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> i. Three candidates appeared for M.D. (Pediatrics) Practical examinations:
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> 1. Dr. Bhavani Shankar Service Candidate
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> 2. Dr. Kalpana Merit Candidate
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> 3. Dr. Ranganath Merit Candidate
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> There are four examiners- Two Internals and two Externals namely 1. Prof. Uma Maheshwara Rao, Professor and HOD of Pediatrics, Andhra Medical College, Visakhapatnam; 2. Prof. Surya Kumar, Additional Professor of Pediatrics, Andhra Medical College, Visakhapatnam and two Externals 1. Prof. Mallikarjun, Professor of Pediatrics, Medical College Professor from Gulburga, Karnataka State and 2. Prof. Mani Vasagam, Professor of Pediatrics, Medical College, Madhurai, Tamilnadu State and especially Professor Mallikarjun was got appointed by Mrs. G.Anuradha, Acting Deputy Registrar of the University of Health Sciences on prior understanding and illegal gratification to extend favouritism for Dr.Bhavani Shankar average service candidate in practical examination on 01.11.2004. The examiners declared only Dr.Bhavani Shakar passed, other two merit candidates failed as FIRST DISCRESION."

3. The second respondent filed counter affidavit. It is stated in the counter affidavit that three candidates appeared for M.D. Degree Pediatrics examination during September/October, 2004. As per the procedure of the University, two internal and two external examiners will be appointed as per their seniority and service particulars in their Specialty and from the panel of the examiners approved by the Board of Studies and Academic Senate. Dr. Mallikarjuna is one of the senior examiners included in the panel. Para. 4 of the counter affidavit needs to be noted and it is thus:

> "The following three candidates appeared for MD Degree Pediatrics during Sept./Oct.2004 examination. They secured theory and clinical marks as noted against their names. As per

the procedure of the University two internal and two external examiners will be appointed as per their seniority and service particulars in their Specialty and from the panel of the examiners approved by the Board of Studies and Academic Senate. Dr. Mallikharjuna is one of the senior examiners and included in the panel. There were no complaints against him so far. The students will be examined in case presentations and the results are decided by the four examiners collectively but not by the single examiner as alleged by the petitioner. The examiners will be appointed by the Vice Chancellor. The Deputy Registrar (Examinations) will communicate the orders to the concerned examiners. As such, the contention of the petitioner that Dr.Mallikarjuna was appointed by the 3rd respondent is not correct.

Regd.No. Name of the Marks Secured Marks Secured Total

Candidate II III IV Clinicals Viva

Max. 100 100 100 200 100 600

0103313 Dr.Bhavani

Shankar 53 52 60 110 50 325 Pass

0103311 Dr. A.L.

Ranganath 56 62 52 70 30 270 Fail

0103312 Dr.Kalpana 61 61 60 130 60 372 Pass

In reply to paras. II to VII, I submit that all the allegations made by the petitioner in this paragraph are without any basis, and never at any point of time these aspects were not brought to notice of the university at the time of examination. The representations received from the petitioner were placed before the Board of Examiners for consideration, before announcement of results. The Board stated that as the performance of the candidate both in theory and practical is being assessed separately and recommended to release his result. Basing on the recommendations of the committee, the result of the candidate was declared. Hence, there is no hasty decision taken by the University in releasing his result. As per the procedure, theory papers will be Coded and sent to different centers for valuation. After receiving the theory marks and practical marks they will be decoded and compiled/tabulated and then results will be announced. The university has no powers to decrease/increase or change the original record furnished by the examiners. Nobody can change the marks by taking personal risk for the candidates. Petitioner himself has stated in his representation dated 04.11.2004 that he has no doubt about the impartial theory examination conducted by the University. Hence, the present allegation is contradictory to his original version. The 3rd respondent applied for permission on 6.12.04 to leave the country for personal purpose by availing casual leaves and public holidays from 07.01.2005. Whereas the result of PG Degree and Diploma was declared on 10.12.2004. She has applied for leave even before the declaration of results. However, while 3rd respondent was on leave, the entire record was available in the section with dealing assistant and Asst. Registrar concerned who looked after all the result work. So far nobody visited the university from ACB and conducted any enquiry. Similarly, Hon'ble Lokayukta also not called for any remarks from the university."

4. Heard the party in person and the learned Standing Counsel appearing for the respondents-University.

5. The main grievance of the petitioner is that the members of the teaching faculty working in the private colleges are not competent to act as examiners and therefore, the assessment made by the examiners in respect of the petitioner in practicals is not correct and proper.

6. The learned Standing Counsel appearing for the respondents-University submits that there is no bar in appointing the members of the faculty of the private medical colleges as examiners. He further submits that the appointment of examiners is in accordance with the guidelines issued by Medical Council of India. He placed on record the guidelines followed for appointment of examiners in all the subjects relating to Post Graduate Degree or Diploma courses.

7. There is no bar of appointing the members of the faculty of the private medical colleges as examiners in the guidelines arrived by the Medical Council of India. In that view of the matter, I do not see any merits in the writ petition.

8. Accordingly, the writ petition is dismissed. No costs.

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B.SESHASAYANA REDDY, J.

Dated: 19th September, 2005.

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